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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ASSOCIATION OF IRRITATED
RESIDENTS, an unincorporated association,
and NATURAL RESOURCES DEFENSE
COUNCIL, INC.,

Plaintiffs.

V.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, STEPHEN L. JOHNSON, in his official capacity as Administrator of the United States Environmental Protection Agency, and WAYNE NASTRI, in his official capacity as Regional Administrator for Region IX of the United States Environmental Protection Agency,

Defendants.

No. CV 08-00227 SC

**STIPULATION AND
[PROPOSED] ORDER TO AMEND
CONSENT DECREE DEADLINES**

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1 WHEREAS, Plaintiffs' complaint in this matter alleges that Defendants United States
 2 Environmental Protection Agency; Stephen L. Johnson, in his official capacity as Administrator
 3 of the United States Environmental Protection Agency; and Wayne Nastri, in his official capacity
 4 as Administrator for Region IX of the United States Environmental Protection Agency
 5 (collectively, "EPA") failed to act on the following three state implementation plans ("SIPs")
 6 within the time lines set forth in section 110(k)(2) of the Clean Air Act, 42 U.S.C. § 7410(k)(2):
 7 (1) the 2003 State and Federal Strategy for the California State Implementation Plan ("2003 State
 8 SIP"); (2) the 2004 San Joaquin Valley Extreme Ozone Attainment Demonstration Plan ("2004
 9 San Joaquin Valley SIP"); and (3) the 2003 Air Quality Management Plan for the South Coast
 10 Air Quality Management District ("2003 South Coast SIP");

11 WHEREAS, on September 12, 2008, the Court entered a Consent Decree, Dkt. 21, which
 12 requires EPA to sign for publication in the Federal Register notices of the Agency's proposed
 13 actions on each of the SIPs by October 15, 2008, and notices of the Agency's final actions on
 14 each of the SIPs by January 15, 2009;

15 WHEREAS, EPA has met the October 15, 2008 proposed action deadline for all three
 16 SIPs, and expects to meet the January 15, 2009 final action deadline for the 2003 South Coast
 17 SIP and those portions of the 2003 State SIP that pertain to the 2003 South Coast SIP;

18 WHEREAS, EPA received a number of substantive public comments in response to the
 19 Agency's proposed approval of the 2004 San Joaquin Valley SIP and those portions of the 2003
 20 State SIP that pertain to the 2004 San Joaquin Valley SIP;

21 WHEREAS, EPA requires additional time to review those comments and to take final
 22 action on the 2004 San Joaquin Valley SIP and those portions of the 2003 State SIP that relate to
 23 the 2004 San Joaquin Valley SIP;

24 WHEREAS, Paragraph 6 of the Consent Decree authorizes EPA and Plaintiffs to extend
 25 the aforementioned deadlines via written stipulation;

26 WHEREAS, EPA has stated that it intends to take final action on the 2003 State SIP, the
 27 2004 San Joaquin Valley SIP, and the 2003 South Coast SIP before final action is taken on any
 28 California 8-hour ozone plan, including the State Strategy for California's 2007 State

1 Implementation Plan, submitted on November 16, 2007, the 2007 San Joaquin Valley Ozone
2 Plan, submitted on November 16, 2007, and the Final 2007 Air Quality Management Plan for
3 the South Coast Air Basin and the Coachella Valley, submitted on November 28, 2007;

4 NOW THEREFORE, the parties, by and through their undersigned counsel, hereby
5 stipulate to amend the deadlines in Paragraph 2 of the Consent Decree by replacing it with the
6 following paragraph:

- 7 2. (a) EPA shall sign for publication in the Federal Register a notice of the
8 Agency's final action on the 2003 South Coast SIP and related portions of
9 the 2003 State SIP by January 15, 2009, pursuant to section 110(k) of the
10 Clean Air Act. Once signed, EPA shall deliver the notice to the Office of
11 the Federal Register for publication.
- 12 (b) EPA shall sign for publication in the Federal Register a notice of the
13 Agency's final action or re-proposed action on the 2004 San Joaquin
14 Valley SIP and related portions of the 2003 State SIP no later than June
15 30, 2009, pursuant to section 110(k) of the Clean Air Act. Once signed,
16 EPA shall deliver the notice to the Office of the Federal Register for
17 publication.
- 18 (c) In the event that EPA re-proposes action on the 2004 San Joaquin Valley
19 SIP and related portions of the 2003 State SIP pursuant to Paragraph 2(b),
20 EPA shall sign for publication in the Federal Register a notice of the
21 Agency's final action on those SIPs by November 13, 2009, pursuant to
22 section 110(k) of the Clean Air Act. Once signed, EPA shall deliver the
23 notice to the Office of the Federal Register for publication.

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25 FOR THE DEFENDANTS:

26 RONALD J. TENPAS
27 Assistant Attorney General
28 Environment & Natural Resources Division

Dated: January 14, 2009

/s/ Rochelle L. Russell
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FOR THE PLAINTIFFS:

Dated: January 14, 2009

/s/ Brent Newell
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Dated: January 14, 2009

/s/ Adriano Martinez
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PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: 1/15/09



1 **CERTIFICATE OF SERVICE**

2 I certify that on January 14, 2009, a true and correct copy of the foregoing
3 **STIPULATION AND [PROPOSED] ORDER TO AMEND CONSENT DECREE**
4 **DEADLINES** was served electronically via the Court's e-filing system to Counsel of Record.

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6 /s/ Rochelle L. Russell
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ROCHELLE L. RUSSELL